
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ROLAND COOKE,

Plaintiff,

vs.

PHILIP MORRIS and ALTRIA GROUP,

Defendants.

REPORT & RECOMMENDATION

Case No. 2:14-cv-00879

District Judge Dale Kimball

Magistrate Judge Dustin B. Pead

On May 19, 2015, this Court issued a Memorandum Decision and Order (“Order”) granting Defendants’ motion to quash and giving Plaintiff Roland Cooke (“Mr. Cooke”) an additional twenty days within which to effect proper service (doc. 13).¹ In its Order, the court specifically stated that Mr. Cooke’s failure to effect proper service within the designated time would “result in a recommendation to the District Court of immediate dismissal of the case pursuant to Federal Rule of Civil Procedure 12(b)(4) and 12(b)(5)” (doc. 13, p. 4). On June 17, 2015, Defendants filed their pending motion to dismiss Mr. Cooke’s complaint (doc. 16).

Upon review and for the reasons set forth in this court’s Order, the court concludes that Mr. Cooke has failed to serve properly Defendants within the time allotted. Accordingly, this court hereby recommends to the District Court that Defendants’ motion to dismiss be granted pursuant to Federal Rule of Civil Procedure 12(b)(4) and 12(b)(5) (doc. 16). *See* Fed. R. Civ. P.

¹This case was referred to Magistrate Dustin Pead from District Court Judge Dale Kimball pursuant to 28 U.S.C. 636(b)(1)(B) (doc. 7).

12(b)(4); Fed. R. Civ. P. 12(b)(5).

Copies of the foregoing Report and Recommendation are being sent to all parties, who are hereby notified of their right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The parties must file an objection to this Report and Recommendation within fourteen (14) days of being served. *Id.* Failure to object may constitute waiver of objections upon subsequent review.

Dated the 17th day of June, 2015



Dustin B. Pead
United States Magistrate Judge